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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,751	06/26/2001	Dale F. McIntyre	83009F-P	1010

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EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/891,751

Applicant(s)

MCINTYRE ET AL.

Examiner

Dohm Chankong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4, 10-12, 20-22, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4, 10-12, 20-22 and 29-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1> This action is in response to Applicant's request for continued examination.

Applicant amends claim 7. Claims 4, 7, 10-12, 21, 22, 29 and 30 are presented for further examination.

2> This is a non-final rejection.

#### *Continued Examination Under 37 CFR 1.114*

3> A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1.20.2006 has been entered.

#### *Response to Arguments*

4> Applicant's arguments with respect to claims 4, 7, 10-12, 21, 22, 29 and 30 have been fully considered but they are not persuasive. Applicant argues that Capps, Goldberg and Lloyd-Jones in combination are deficient in teaching elements of the claimed invention. In particular, Applicants argue that the references fail to disclose an image content identifier having an associated electronic address of a second party and forwarding digital images from a first party to the electronic address of said second party. Applicant's remarks, pg. 7:¶ 3, pg. 8: ¶ 3.

In regards to the Capp reference, Applicant asserts that the person that Capps identifies within an image does not have an associated electronic address. Id., pg. 7 ¶3. Applicant's assertion is contradicted by Capps' disclosure. As evinced by Capps figures and specification, once a person is identified within an image, associated data, including the person's email address is retrieved from a database [Figure 3 «items 350, 360» | 0054, 0058].

Furthermore Applicant asserts that Capps "looks for data such as email addresses...and creates hyperlinks for this data". Id. pg. 8:¶2. Applicant analysis of Capps' use of hyperlinks is incomplete and unfairly narrows the limits of Capps' invention. Applicant states that the "hyperlink is associated with retrieved data not the alleged content identifier". Id. However, the Office's interprets Capps' invention differently. Capps discloses that upon using an identifier (characteristics) for identifying a person within an image, relevant information associated with that person's identifier, is retrieved from the database [0053, 0054]. This relevant information may include an email address of the identified person [0054]. Capps offers several options after the email address has been retrieved. In particular, Capps' invention will check to see if that person is available on the network, such that the person can "be reached by at least one access point associated with that person" (emphasis added) [0058]. This access point for initiating communications may include "automatically addressing an email message, or providing a hyperlink to one or more Internet web pages" [0004]. Thus, Applicant's focus solely upon hyperlinks is misplaced and ignores other means of communicating with the identified person, such as email, that are clearly contemplated by Capps.

The retrieved email address [that was based on identifying the person within the image] may then may be used to communicate with the identified person. In other words, an image content identifier (facial characteristics) is associated with a person, who is associated with an electronic address (email). Capps' image content identifier is associated with the electronic address. The person being identified within the picture is analogous to the second party claimed in claim 4. Capps' user is analogous to the claimed first party.

In conclusion, the Office disagrees with Applicant's analysis of the Capps reference. Capps clearly discloses a user (first party) utilizing an image identifier (characteristics) to identify a person within an image, where information, such as email addresses, may be associated with the identifier and the person. Afterwards, the first party may utilize the retrieved email address that is associated with the second party's identifier to contact the second party.

5> As discussed in the Final Rejection, filed 8.9.2005, Capps did not expressly disclose a content image identifier. However, this limitation is suggested by Capps' use of characteristics to identify persons within an image [0053]. As specified within Applicant's disclosure, an image content identifier may be based on a feature of the person within the image [see Applicant's Figures 10a, 10b]. Goldberg was utilized to merely supplement and expressly disclose the facial identifier functionality that was suggested by Capps.

6> Capps also did not expressly disclose forwarding the digital image to the identified person within the image (second party). As discussed previously, Capps discloses contacting

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a user by email, using the email address retrieved from a database upon identifying the person within an image. Applicant is thus arguing that the claimed invention is patentably distinct because the image is being transmitted via email. However, as would be obvious to one of ordinary skill in the art, forwarding images as attachments to emails is well known. Thus, it would have been obvious that a person of ordinary skill in the art would be able to forward the digital image (as well as anything else) via the retrieved email address when the user (first party) contacts the identified person from the image (second party). Such a step does not represent a patentable distinction over the references and what is well known in the art.

Furthermore, Lloyd-Jones teaches this step of transmitting images, including the image that was analyzed to identify the second party, to the identified second party [0039]. Thus, the combination of Capps, Goldberg and Lloyd-Jones discloses the limitations as claimed by Applicant. The claimed limitations, broadly and reasonably, interpreted do not distinguish Applicant's invention over the cited references. Thus, the claim rejections are maintained for all claims.

7> As claim 7 was amended, only claim 7 is further addressed below.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art

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are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8> Claims 4, 7, 10, 12, 20-22 and 29-30 are rejected under 35 U.S.C § 103(a) as being unpatentable over Capps, U.S Patent Publication No. 2002|0111813 ["Capps"], in view of Lloyd-Jones, U.S Patent Publication No. 2002|0055955 ["Lloyd-Jones"], in further view of Goldberg, U.S Patent Publication 2004|0008872.

9> As to claims 4, 10, 12, 20-22 and 29-30, see response above and rejections set forth in Final Rejection, filed 8.9.2005.

10> As to claim 7, Capps discloses a method for identifying images by a computer for communication of said images over a communication network to a designated remote location, comprising the steps of:

automatically analyzing a digital image [0052]; and  
identifying a feature within said digital image by said computer using pre-established image content identifier having an associated electronic address at a first location [0052, 0053].

Capps discloses transmitting an email to a second remote location over a communication network to a second remote location [0004, 0058 where : an access point, such as email address, is associated with the identified person] but does not explicitly disclose automatically transmitting said image to a second remote location over a communication

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network for displaying or storing said image based on identifying said feature within said image.

11> Capps discloses the claimed invention except for automatically forwarding the image to the identified second party. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automate Capps action button process so that communications to the second party are done automatically (instead of having the user press the button to initiate communications), since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has been accomplished the same result involves only routine skill in the art.

Furthermore, Lloyd-Jones discloses automatically forwarding an image from a first party to an electronic address of a second party [0039]. It would have obvious to modify Capps' email so that it included the scanned image when it is sent to the second party. Not only is this process (the act of attaching an image to an email) well known and routine in the art, but Lloyd-Jones discloses that such functionality allows multiple images associated with a second party to be sent more easily [see Lloyd-Jones, 0005].

12> Claim 11 is rejected under 35 U.S.C § 103(a) as being unpatentable over Capps, Lloyd-Jones and Goldberg, in view of Davis et al, U.S Patent Publication 2002/0001395 ["Davis"].



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13> As to claim 11, see response above and rejections set forth in Final Rejection, filed 8.9.2005.

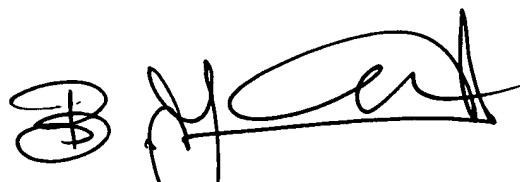
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:00 AM to 5:00 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



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